

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 111 of 1992

For Approval and Signature:

HON'BLE MR.JUSTICE A.R.DAVE
and
HON'BLE MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

COMMISSIONER OF INCOME-TAX

Versus

AMBALAL SARABHAI D. TRUST NO.5

Appearance:

1. INCOME TAX REFERENCE No. 111 of 1992
MR MANISH R BHATT for Petitioner No. 1
MR BD KARIA, for Respondent No. 1
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CORAM : HON'BLE MR.JUSTICE A.R.DAVE
and
HON'BLE MR.JUSTICE K.A.PUJ

Date of decision: 03/12/2003

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE A.R.DAVE)

In view of the order passed by the Hon'ble Supreme Court in Civil Appeal No. 3575 of 1989 dated 22.8.1989 and 26.9.89, at the instance of the revenue, the following question has been referred to this court for its opinion under the provisions of the Income-tax Act, 1961 (hereinafter referred to as 'the Act'), arising out of an order dated 28.3.85 passed by the Income Tax Appellate Tribunal, Ahmedabad Bench 'A' in ITAs Nos. 2249 and 2250/Ahd/1982 for the Assessment Year 1979-80 and ITAs Nos. 1129, 1130 and 1131/Ahd/1982 for the Assessment Year 1977-78.

"Whether, on the facts and in the circumstances of the case, the Tribunal has not erred in law and on facts in allowing the appeal of the assessee?"

2. Senior Standing Counsel Shri M.R. Bhatt has appeared for the applicant revenue, whereas learned advocate Shri B.D. Karia has appeared for the respondent assessee.

3. The learned advocates have submitted that the facts involved in this reference are similar to those involved in I.T.R. No. 100/91. Looking to the fact that the said reference has been disposed of in favour of the revenue and against the assessee and looking to the law laid down by this court in the case of CIT v. Ambalal Sarabhai D. Trust No. 5, 231 ITR 540, we answer the question in the negative, i.e., in favour of the revenue and against the assessee.

The reference stands disposed of accordingly with no order as to costs.

(A.R. Dave, J.)

(K.A. Puj, J.)

(hn)